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EXAMINER

LE, LINH GIANG

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/943,193	<b>Applicant(s)</b> RIFF ET AL.	
	<b>Examiner</b> MICHELLE LE	<b>Art Unit</b> 3686	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8, 12, 13, 18-21, 32-34, 39 and 40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 12-13, 18-21, 32-34 and 39-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Notice to Applicant***

1. This communication is in response to Amendment and Remarks filed 11 September 2008. Claims 1-8, 12-13, 18-21, 32-34 and 39-40 are pending. Claims 1, 8, 18, and 32 have been amended.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-8, 12-13, 18-21, 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (5,997,476) and Ferek-Petric (2001/0044586) collectively in view of Lynam (6,934, 372).

3. As per claim 1, Brown and Bardy teach an internet-based method comprising the steps of:  
providing a networked computing system including a database network site, a patient medical services delivery application program, and a communications channel

establishing a data and services delivery path (Brown; Fig. 1 and Col.2, line 53 to Col. 3, line 37) ;

receiving in a substantially continuous and real-time manner at the database network site first data inputs uniquely representative of sensed physiologic information from a medical device configuration of a patient (Brown; Col. 4, line 64 – Col. 5, line 13; Ferek-Petric, Para. 2) );

enabling the networked computing system to communicate with at least one web-enabled web-site and to receive web-site originated signals requesting access to first data inputs on the database network site and to services provided by the patient medical services delivery application program (Brown; Col. 4, lines 49-63, Ferek-Petric, para. 2));

Brown does not expressly teach:

monitoring the data and service delivery path to determine a user's access to the first data inputs on the database network site and access to the patient medical services delivery application program service, and determining a revenue for the user's access to the networked computing system based upon at least one of the user's access to the first data inputs on the database network site and access to the patient medical services directory.

However this feature is well known in the art as evidenced by Lynam. In particular Lynam teaches monitoring time usage of the Internet and multiplying the time units by a monetary rate for billing purposes (Lynam; col. 2, lines 55-65). Since the

claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

4. As per claim 2, Lynam teaches further including the step of providing said web-site and configuring said web-site with a user interface which includes a sign-in input to enable access to said database network site (Lynam; Col. 2, lines 44-45). It would have been obvious to add this feature to Brown and Ferek-Petric with the motivation providing accessibility to the Internet (Lynam Col. 1, lines 54-62)

5. As per claim 3, Brown teaches in which the receiving step includes receiving at least one signal carrying information representing sensed physiologic status within the patient from at least one medical device located on or at least partially in the patient's body (Brown; Col. 4, line 64 – Col. 5, line 13).

6. As per claim 4, Brown teaches the receiving step includes receiving signals carrying information representing actual physiologic phenomenon within the patient as sensed by at least one medical device located on or at least partially in the patient's body (Brown; Col. 4, line 64 – Col. 5, line 13).

7. As per claim 5, Brown teaches the receiving step includes receiving signals carrying information representing actual physiologic phenomenon within the patient as sensed by a plurality of medical devices located on or at least partially in the patient's body (Brown; Col. 4, line 64 – Col. 5, line 13).

8. As per claim 6, Lynam teaches the enabling step comprises providing a secure sign-in and validating an originator's security-related action prior to allowing access of the originator to the database information (Lynam; Col. 2, lines 45-65). It would have been obvious to add this feature to Brown and Ferek-Petric with the motivation providing accessibility to the Internet (Lynam Col. 1, lines 54-62).

9. As per claim 7, Brown teaches the first data inputs provides intermediate information to enable further production of data representations enabling subsequent actions (Brown; Fig. 1 and Col.2, line 53 to Col. 3, line 37).

10. Claim 8 repeats the limitations of claims 1-7 and the reasons for rejection are incorporated herein.

11. Claims 12-13 repeat limitations of claims 1-7 and the reasons for rejection are incorporated herein.

12. Claim 18 repeats the limitations of claims 1-7 and the reasons for rejection are incorporated herein.

13. As per claim 19, Brown teaches the step of enabling includes initiating automatic software analysis of the first data inputs to determine whether any sensed physiologic activity is abnormal (Brown; Fig. 1 and Col.2, line 53 to Col. 3, line 37).

14. As per claim 20, Brown teaches the step of enabling includes initiating automatic software analysis of the first data inputs to determine actual values for any sensed physiologic activity (Brown; Fig. 1 and Col.2, line 53 to Col. 3, line 37).

15. As per claim 21, Brown teaches the step of enabling includes initiating automatic software analysis of the first data inputs to determine whether any sensed physiologic activity is indicative of a demonstrable or likely pattern of physiological activity (Brown; Fig. 1 and Col.2, line 53 to Col. 3, line 37).

16. As per claim 32, Brown and Ferek-Petric collectively teach computer implemented method for improved data management in the healthcare industry by increasing patient engagement with recommended healthcare delivery modalities, comprising the steps of:

- a. providing an implanted medical device configured for automatic sensing of high relevance biologic data of the patient and wirelessly transmitting that data, or portions thereof, to an information parser of the healthcare professional (Brown; Col. 4, line 64 – Col. 5, line 13);
- b. configuring a patient accessible electronic interface to receive signals representative of sensed high relevance biological data of the patient (Brown; Col. 5, lines 14-30);
- c. providing selectively programmable computer implemented rapid interpretations of the sensed high relevance biologic data and, when indicated, electronically sharing with the healthcare professional the details of the sensed high relevance biological data without resort to personal contact or face to face meeting between the healthcare professional and the patient (Brown; Col. 4, lines 49-63); and
- d. providing information flow paths for the healthcare professional to further contribute to the knowledge database and patient engagement by offering the patient and a patient's designated advocate direct information about the high relevance biologic data thereby actively engaging the patient in a highly content rich yet efficient manner (Brown; Col. 4, lines 49-63).

17. Claims 33-34 and 39-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (5,997,476) in view of Bahl (6,834,341).



18. As per claim 33, Brown teaches a computer implemented internet-based method for an improved connect and monitoring service to rapidly connect remote persons having implantable medical devices to a database network for medical device data exchange and analysis, said method being characterized in that it comprises the steps of:

receiving at the web-site automatic inputs associated with a specific implanted medical device and user of the device (Brown; Col. 4, line 64 – Col. 5, line 13);

automatically confirming the identity of the implanted medical device and the user (Brown; Col. 4, lines 49-63);

enabling the user to access the database via the web-site to use the service for real time monitoring of high relevance physiologic data mined from all monitored data of the user (Brown; Col. 4, lines 49-63); and

enabling the database network site to communicate with at least one web-enabled web site and to receive web site originated signals requesting access to the database (Brown; Col. 4, lines 49-63).

Brown does not expressly teach providing a web site having a user interface wherein the user interface includes a secure sign-in input to access a database network site. However this feature is well known in the art as evidenced by Bahl. In particular Bahl teaches verifying the authentication of a user or group of users (Bahl; Col. 11, lines 10-50). It would have been obvious to add this feature to Brown with the motivation of

giving a user Internet access depending on what price they are willing to pay (Bahl; Col. 2, lines 26-35).

19. As per claim 34, Bahl teaches wherein said web-site further includes a proxy right access scheme to provide privileged access to a user's data by friends or family as programmed (Bahl; Col. 11, lines 10-30). It would have been obvious to add this feature to Brown with the motivation of giving a user Internet access depending on what price they are willing to pay (Bahl; Col. 2, lines 26-35).

20. As per claim 39 Brown teaches a computer implemented patient management network configured for automatically determining which connection protocols to follow to rapidly connect one or more remote persons having implanted medical devices to a database network for medical device data exchange and analysis, said network being characterized in that it comprises:

said web site providing for acceptance of automatic inputs to the web site associated with a specific implanted medical device and user of the device;

processing routines and module for automatically confirming the identity of the implanted medical device and the user (Brown; Col. 4, line 64 – Col. 5, line 13);

means for enabling the database network site to communicate with at least one web-enabled web site and to receive web site originated signals requesting access to the database (Brown; Col. 4, lines 35-65).

Brown does not expressly teach a web site having a user interface wherein the user interface includes a secure sign-in input protocol to access a database network site and processing routines and module for performing computer implemented analyses to determine which user groups to rapidly and selectively automatically access the database via the web-site for receipt of high relevance physiologic data mined from all monitored data of the user. However this feature is well known in the art as evidenced by Bahl. In particular Bahl teaches verifying the authentication of a user or group of users (Bahl; Col. 11, lines 10-50). It would have been obvious to add this feature to Brown with the motivation of giving a user Internet access depending on what price they are willing to pay (Bahl; Col. 2, lines 26-35).

21. As per claim 40, Brown teaches system for implementing a disease management service for a remote chronic patient with an implantable medical device wherein the service includes multi-users of data and information exchange systems cooperating to provide the service for continuously managing the chronic patient's disease, health care and medical devices comprising:

a server hosting medical and physiological data collected from the implanted medical device of the patient (Brown; Col. 4, lines 24-35);

a physician station in data communications with the server (Brown; Col. 4, lines 24-35);

a health care system information network being in a bi-directional communication with the physician station and further having a data communication with the server (Brown; Col. 4, lines 35-65);

a disease management organization in bi-directional communications with said health care system information network (Brown; Col. 4, lines 35-65);

said server including at least one set of database of information concerning the patient wherein the database is structured to assist the disease management organization to manage the patient (Brown; Col. 5, lines 14-30);

said server including means for enabling the database to communicate with at least one web-enabled web site and to receive web site originated signals requesting access to the database (Brown; Col. 4, lines 35-65).

Brown does not expressly teach means for monitoring access to the database and determining a fee based upon access to the database in the course of managing the patient. However, this is well known in the art as evidenced by Bahl. In particular, Bahl teaches accounting for data packets and billing users based on how much bandwidth one has consumed (Bahl; Col. 18, lines 19-32). It would have been obvious to add this feature to Brown with the motivation of giving a user Internet access depending on what price they are willing to pay (Bahl; Col. 2, lines 26-35).

***Conclusion***

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHELLE LE whose telephone number is (571) 272-8207. The examiner can normally be reached on 8 AM - 5PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gerald O'Connor can be reached on (571) 272-3600. The fax phone

number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or (571) 272-1000.

1/2/09  
/M. L./  
Examiner, Art Unit 3686

/Gerald J. O'Connor/  
Supervisory Patent Examiner  
Group Art Unit 3686